STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner **File No. 90481-001**
v

Blue Care Network of Michigan
Respondent
_____/

Issued and entered
this 15th day of September 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 19, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of the Office of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. On June 26, 2008, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The issue in this matter can be resolved by analyzing the Blue Care Network (BCN) BCN 10 certificate of coverage and its related Healthy Blue Living rider. It is not necessary to obtain a medical opinion from an independent review organization. The Commissioner reviews contractual issues under MCL 500.1911(7).

II
FACTUAL BACKGROUND

Effective January 1, 2008 the Petitioner was conditionally enrolled in BCN's Healthy Blue Living program which is described in the Healthy Blue Living rider as "the BCN coverage program designed to promote or maintain good health and/or prevent disease or the

progression of disease for Members in the Program. The Program rewards Members that maintain or adopt healthier behaviors by making lower copayments, and or coinsurance and deductibles available to those Members." BCN terminated the Petitioner's enrollment in the Healthy Living Program on March 31, 2008 and returned her to the standard plan. The Petitioner unsuccessfully appealed her termination from the program.

The Petitioner exhausted BCN's internal grievance process and received its final determination letter dated June 3, 2008.

III
ISSUE

Did BCN properly deny the Petitioner continued coverage in the Healthy Blue Living program?

IV
ANALYSIS

Petitioner's Argument

The Petitioner wants her family's coverage in the Healthy Blue Living program restored with an effective date of April 1, 2008. She explained her position in a May 9, 2008 letter to BCN:

> I completed all necessary steps to be placed in the program to the best of my ability and in good faith. . . . Both my husband and I went to our primary care physician on March 20, 2008 for physicals and to have our Health Qualification forms completed prior to the March 31, 2008 deadline. I discussed with my doctor the need to have the forms faxed to you prior to this date. I contacted their office one week later to confirm that the forms had been faxed to you prior to this date. I contacted their office one week later to confirm that the forms had been faxed and I was told by the front desk staff that they had been faxed.
>
> In addition, both my husband and I completed the online Health Risk Appraisal forms by the deadline. As I indicated in my previous letter, I completed my appraisal the same day as my physical. The web site appeared to be having difficulties because I had to try 3 times to complete it. When I finished, it appeared

> that it finally went through. My husband completed his appraisal on March 31, 2008.
>
> I was in and out of town at the end of March due to a death in the family and funeral arrangements. When I returned, I contacted your office (I believe on April 3rd) to confirm my enrollment in the Enhanced program. At this time, I was told that none of my information had been received. I then went to my doctor's office and obtained a copy of the completed qualification forms and attempted to print out a confirmation of the health risk appraisals. I was able to print out my husband's but not mine. I redid my appraisal and printed it. The first time I completed the appraisal I was working from a laptop and did not have access to a printer.

The Petitioner notes that the change made on the forms regarding Quit the Nic was made with her doctor's approval due to an error they had made. Additionally, she says she did not enroll in Quit the Nic because it was her understanding that she was only eligible for this program if she was part of the enhanced plan. She says in early April 2008 she did not enroll because she was told by BCN representatives that she no longer had the enhanced benefits. If she had not been told she was in the standard benefits program the she would have completed the other requirements she needed to fulfill in order to stay in the enhanced plan.

She says BCN perhaps needs to make contact with persons who have not completed the requirements before the deadline.

Respondent's Argument

In its initial appeal decision, BCN stated that Petitioner and her husband Edward had failed to meet the following requirements for admission into the enhanced benefit program: XXXXX's health risk appraisal form and the health qualification forms for both XXXXX and XXXXX were not completed by the March 31, 2008 deadline.

In its final adverse determination, BCN offered this explanation for denying the XXXXX admission into the enhanced benefit program:

> The requirements to remain in the Enhanced benefit level were not completed in the approved enrollment time period. We [also] have no record of you enrolling in Quit the Nic. Therefore, we have maintained our decision and your contract will remain in the

> Standard benefit level. You may re-apply for our enhanced benefit at your next open enrollment.

BCN states that the benefits became effective on January 1, 2008 and reminder notices regarding the requirements for the enhanced benefit plan were sent out on February 15 and February 21, 2008. In addition, a reminder phone call was placed on March 7, 2008. BCN therefore contends that changing the Petitioner's coverage to the standard plan is consistent with the terms of the rider.

Commissioner's Review

The issue in this case is whether BCN properly denied continued coverage in its Healthy Blue Living rider's enhanced benefit program. The rider describes the requirements for continuing coverage in the Healthy Blue Living program after 90 days. The rider includes the following provisions:

> **HOW TO EARN THE HEALTHY LIVING ENHANCED BENEFITS IN THE FIRST YEAR OF ENROLLMENT**
>
> Upon enrollment each Healthy Living Eligible Member will receive Enhanced Benefits for a 90-day period. To continue receiving the Enhanced Benefits each Healthy Living Eligible Member must take the following steps:
>
> 1. Within 90 days of enrollment each Healthy Living Eligible Member must complete a Health Risk Assessment (HRA) and a Healthy Living Enrollment form which will assess the Member's medical condition and/or lifestyle behavior in relation to the following areas:
>
>   - Blood pressure
>   - Smoking
>   - Cholesterol
>   - Blood sugar
>   - Weight
>   - Alcohol use
>
> 2. In order to earn the Enhanced Benefits, Healthy Living Eligible Members must achieve a score of 80 points or more on the Healthy Living Enrollment Form. Scores are based upon a combined assessment of the Member's current medical condition and/or lifestyle behavior and the Member's

commitment to comply with the conditions of programs and behaviors recommended by their primary care physician and BCN. The results of the Healthy Living Enrollment Form must be reviewed with and signed by the Member's primary care physician. The results must be submitted to BCN within the 90-day time period.

3. If both Healthy Living Eligible Members have Healthy Living scores of 80 points or more as a result of their current medical conditions and/or lifestyle behaviors, all Members on the contract will automatically continue to receive Enhanced Benefits until the date for Reassessment recommended by the Members' primary care physicians.

Program enrollment was contingent on the Petitioner meeting the requirements of the rider listed above by March 31, 2008 to stay in the enhanced plan. However, the forms were not submitted prior to April 28, 2008. Though they may have had a reasonable explanation, the Petitioner and her husband failed to complete the requirements within 90 days (by March 31, 2008) as required under the terms of the rider. The Commissioner therefore finds that BCN's denial is consistent with its Healthy Blue Living rider.

V
ORDER

The Commissioner upholds BCN's June 3, 2008, final adverse determination.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.